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Decision 07-05-047 May 24, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues.	Rulemaking 06-03-004 (Filed March 2, 2006)

OPINION ESTABLISHING PROCESS FOR APPROVAL OF INTERIM MARKETING PLANS FOR THE CALIFORNIA SOLAR INITIATIVE

This decision establishes a process for approval of interim marketing and outreach plans for the California Solar Initiative (CSI). The interim process will remain in place until such time as the Commission provides more complete guidance to the CSI program administrators regarding CSI marketing and outreach activities at a later date in Phase II of this rulemaking.

Background

In opening this rulemaking on the CSI, the Commission stated its intent to develop marketing and outreach protocols for CSI so that funds are used wisely to inform potential solar customers and developers of program opportunities. Given the myriad issues to confront in establishing the CSI, the Commission planned from the outset of this proceeding to address marketing and outreach issues after preliminary, or Phase I issues, were resolved. The Phase II schedule for this proceeding indicates marketing and outreach plans will be addressed following examination of research, development and demonstration (RD&D) and low income/affordable housing incentive issues.[1]

Currently, the CSI program administrators[2] have no Commission-established budget for marketing and outreach activities, although the Commission has set a cap of 10% of total CSI funds on administrative activities, which includes marketing and outreach. (*See* Decision (D.) 06-08-028, mimeo. at 97.) Furthermore, the Commission directed the program administrators to spend no more than 5% of their budgeted CSI funds reserved for administration until marketing, outreach, and program evaluation issues were addressed in Phase II. (*Id*.)

Although the CSI program began on January 1, 2007 and program administrators are now accepting applications for solar incentives from residential and non-residential customers of PG&E, SCE, and San Diego Gas & Electric Company (SDG&E), the program administrators have no guidance from the Commission on CSI marketing and outreach activities. Given that the program is underway, there is an immediate need for the program administrators to perform some level of marketing and outreach functions now, in advance of more thorough guidance on marketing and outreach from the Commission later this year. Any marketing and outreach the program

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[1] *See* "Assigned Commissioner's Ruling Revising Schedule for Phase Two," February 5, 2007.

[2] The CSI program administrators are Pacific Gas and Electric Company (PG&E), the San Diego Regional Energy Office (SDREO), and Southern California Edison Company (SCE). On May 3, 2007, SDREO changed its name to the California Center for Sustainable Energy (CCSE). To avoid confusion, this decision will continue to refer to CCSE by its former name, SDREO.

administrators perform in advance of interim or final Commission guidance is at risk for disallowance.

On April 3, 2007, the assigned Commissioner issued a ruling soliciting comments on a process for approval of interim marketing and outreach plans. The ruling set forth a proposed process whereby program administrators would submit interim marketing plans within 10 days of this order to the Energy Division through an Advice Letter process. The ruling specified a budget of no more than $500,000 annually for each program administrator and listed components of interim marketing plans including bill inserts and installer training sessions.

Comments and/or reply comments on the ruling were filed by Americans for Solar Power (ASPv), the Consumer Federation of California (CFC), the Green Power Institute, PG&E, SDG&E, SDREO, and SCE.

The comments generally support the concept of approval of interim marketing plans by the Energy Division in advance of more complete consideration of this issue by the Commission later this year, although parties seek clarification on elements of the interim marketing plans, the total budget, reporting requirements, and timing of filings. We will address the specific comments in the next section.

Only one party, CFC, opposes the need for interim marketing plans. CFC maintains the Commission does not have authority to begin CSI until January 2008, thus interim marketing in 2007 is unnecessary. Further, CFC maintains that any marketing should be statewide rather than individual campaigns by each program administrator. We disagree with CFC's main assertion that the Commission does not have authority to implement CSI in 2007. Indeed, the program is well underway and applications for solar incentives are received daily by program administrators. Therefore, we find it necessary to approve interim marketing plans despite CFC's comments. We will consider CFC's suggestion for statewide rather than individual marketing efforts when we give greater attention to this issue later in Phase II.

Interim Marketing and Outreach Plans

Given the general agreement on the need for interim CSI marketing and outreach activities, this decision directs the program administrators to submit proposed interim marketing and outreach plans by letter to the Director of the Energy Division, with a copy sent to all parties on the service list of this rulemaking. A more detailed description of the contents of the interim marketing and outreach plans and the approval process is set forth in Appendix A to this order.

We will not require the program administrators to file these proposals as formal Advice Letters, as initially proposed in the assigned Commissioner Ruling, because Advice Letters are filed only by utilities. SDREO is not a utility. Thus, we find it more appropriate for the three program administrators to submit their proposals via a business letter to the Director of the Energy Division, with a copy to the service list of this rulemaking. This will allow parties the opportunity to provide Energy Division with comments on the interim plans.

Based on additional comments by the parties, we provide several clarifications regarding the interim marketing and outreach plans and approval process.

First, the program administrators expressed concern that they would not be able to submit all marketing and collateral materials, such as brochures, fact sheets, and customer education kits, within 10 days of this order. PG&E

suggests it needs time to conduct targeted market research. SCE requests the Commission provide guidelines for CSI messages. We agree that 10 days is a very short timeframe. Nevertheless, our intent is for the program administrators to implement basic marketing and outreach of general program information at this time. The Commission can provide more detailed guidance on CSI marketing messages, and allow a larger budget for detailed market research, after it has considered marketing issues with greater depth at a later point in this proceeding. Therefore, this decision clarifies that the program administrators should file a general marketing and outreach plan and budget within 20 days of this order, and that specific collateral materials do not need to be included with the plan. Instead, after each program administrator's plan is approved by Energy Division, the program administrator should submit collateral materials such as bill inserts as they are developed directly to the Energy Division for staff review and approval, in consultation with the assigned Commissioner. Energy Division will work informally with each program administrator to review and approve all collateral materials. We delegate to the Energy Division and assigned Commissioner to review final versions of all collateral materials before they are issued. The parties may provide input on the overall interim plans, but we limit review of all collateral materials to Energy Division and the assigned Commissioner for efficiency.

Second, SCE suggests it intends to market CSI jointly with its energy efficiency programs. ASPv objects to this idea and contends that CSI needs to be marketed independently, at least initially. In our view, it is reasonable to allow the CSI program administrators the flexibility to jointly market CSI with energy efficiency programs. By this decision, we will allow SCE and all program administrators to conduct interim CSI marketing and outreach jointly with energy efficiency as long as they create a method for tracking and allocating marketing costs between energy efficiency and CSI, and adhere to this tracking methodology. This tracking methodology should be included in each program administrators' interim marketing proposal. It is important for the Commission to separately account for all funds spent on CSI and energy efficiency activities.

Third, the ruling proposed two bill inserts in 2007 to promote CSI. PG&E suggests one insert in 2007, and a second in the first quarter of 2008. We agree with this suggestion and modify the interim plan accordingly. SDG&E contends the bill insert requirement is problematic because issues concerning access to utility billing envelopes, responsibility for the content of the insert, and costs of the insert and mailing have not been addressed. SDG&E states that its bill envelope space in 2007 "may be full" and an additional insert requirement could cause SDG&E to incur added postage. After the proposed decision was circulated, SDG&E provided further legal argument that its billing envelope is utility property and it cannot be compelled to use such property to further the interest of a third party, namely SDREO. To avoid delay of CSI interim marketing activities, at this time we will require only PG&E and SCE to use bill inserts for interim CSI marketing. SDREO should consider independent mailings or other marketing options, in lieu of a bill insert, and propose these other activities as part of its interim plan.

Fourth, SCE asks for an interim marketing budget of more than $500,000 in recognition of its higher overall administrative budget. We will not grant SCE's request to enlarge its interim marketing budget because we assume costs for basic marketing materials are likely to be similar across service territories and because the interim marketing activities we approve by this order are more limited than the PG&E and SCE proposals. As we have already stated, our intent is to allow each program administrator to perform preliminary marketing, focusing on basic program information and training for installers. We will grant SCE's request for a process to request additional interim marketing funds. Program administrators may ask Energy Division for approval to spend up to 20% more than $500,000 for interim marketing, or $100,000. SDG&E suggests separate invoicing of SDREO's interim marketing expenses with supporting documentation. SDREO responds that it is amenable to this approach. We approve SDG&E's recommendation for SDREO to separately invoice its marketing expenses.

Fifth, SDG&E is concerned that any installer training should include discussion of utility interconnection requirements. SDREO agrees that this topic is important. It states it will continue to invite SDG&E to make presentations on this topic at solar training sessions in its region. We agree this topic is important, and we encourage SDREO to continue to invite SDG&E's participation at training sessions. We agree with SDREO that both SDG&E and SDREO must have a consistent message with regard to utility interconnection, and continued cooperation and communication between the two entities is of paramount importance to the success of CSI.

SDG&E contends it will need reimbursement for costs it incurs to send interconnection personnel to SDREO's installer training. SDREO responds that if interconnection personnel at other utilities charge for their CSI-related training time, then the same standard should apply to SDREO. The Commission has previously rejected SDG&E's requests for the utility to receive additional funds to provide SDREO with interconnection and other utility expertise, noting that "[u]tility program administrators receive internal technical support; SDREO must receive similar treatment." (D.04-12-045, p. 20.) We uphold that conclusion here, and we further direct that SDG&E may charge SDREO only if utility interconnection personnel in other regions charge for their time.

Finally, SCE requests clarification of expense reporting requirements regarding interim marketing activities. We herein clarify that the program administrators should submit semi-annual expense reports regarding CSI administrative expenses incurred to date. These semi-annual reports should list interim marketing costs separately from other administrative expenses. The first report is due on July 15, 2007 to the Director of the Energy Division, and further reports are due every six months thereafter. In keeping with D.06-08-024, the program administrators may spend no more than 5% of budgeted CSI funds on administration, and by this order, an additional $500,000 for interim marketing, unless Energy Division approves additional marketing funds of no more than $100,000.

Comments on Proposed Decision

The proposed decision of assigned Commissioner Peevey in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and Rule 14.2(a) of the Commission's Rules of Practice and Procedure. Comments were filed by Californians for Renewable Energy (CARE), CFC, PG&E, SCE, SDG&E and SDREO. Reply comments were filed by PG&E, SCE and SDREO. The final order incorporates minor changes in response to comments. Where comments merely reargued prior positions, they are not addressed.

In SDG&E's comments, the utility provides new legal argument that the proposed decision would violate SDG&E's constitutional free speech and property rights by directing SDG&E to give a third party, SDREO, access to its billing envelopes for CSI marketing purposes. To support its views, SDG&E

cites *PG&E v. CPUC* (475 U.S 1 (1986)), which according to SDG&E found that the utility's billing envelope remains the utility's property and the utility cannot be compelled to use such property to further the interest of a third party. SDG&E suggests SDREO should instead use its own resources to perform CSI marketing and outreach functions, without use of the utility billing envelope. SDREO responds that the question in *PG&E v. CPUC* was whether the Commission could require a utility to include in its billing envelopes the speech of a third party with which the utility disagrees. SDREO notes that SDG&E's position creates a regional barrier to CSI implementation, and suggests that SDG&E will disagree with content of a Commission approved bill insert.

The property rights and free speech issues newly raised by SDG&E require further review by the Commission. To avoid any delay in approval of interim marketing for CSI, the decision has been revised to remove the requirement that SDG&E give SDREO access to its envelopes for CSI marketing purposes. In lieu of a bill insert, SDREO should explore other marketing options such as independent mailings to SDG&E customers.

We find this removal of the bill insert requirement unfortunate because intuitively, a bill insert would seem the fastest, most cost-effective means of providing households and businesses that receive electricity from SDG&E with information about CSI. We urge SDG&E to reconsider its position and continue discussions with SDREO and Energy Division regarding a cooperative arrangement wherein CSI marketing materials can be disseminated to SDG&E customers.

CARE's comments are not focused on marketing and outreach, but pertain to general solar incentive issues and policies such as time of use tariff requirements and standard offer contracts in another Commission proceeding.

CARE's comments are not addressed herein because they are outside the scope of this order.

CFC claims that examination of marketing materials outside the Advice Letter process deprives the assigned Commissioner of authority to prohibit the distribution of inaccurate information. We disagree. Although the interim marketing approval process set forth in this order does not involve formal Advice Letters, it does incorporate notice and comment from parties. Further, Energy Division and the assigned Commissioner will review and approve interim marketing materials, with the specific intent to prevent dissemination of inaccurate information.

Assignment of Proceeding

Commissioner Michael R. Peevey is the assigned Commissioner and Dorothy J. Duda is the assigned Administrative Law Judge in this portion of the proceeding.

Findings of Fact

1. The Commission will give further consideration to CSI marketing and outreach activities in a later portion of this proceeding.
2. The CSI program administrators have no established budget or guidance from the Commission regarding marketing and outreach activities.
3. The Public Utilities Code limits CSI spending to $2.16 billion.

Conclusions of Law

1. The CSI program is underway and there is an immediate need for basic marketing and outreach by program administrators.
2. The program administrators should submit proposed interim marketing and outreach plans by letter to the Director of Energy Division, as set forth in

detail in Appendix A, for review by Energy Division in consultation with the assigned Commissioner.

3. Following Energy Division approval of interim marketing plans, each program administrator should submit final versions of collateral marketing materials to Energy Division staff for review and approval, as described in Appendix A.

4. For the interim, the program administrators may jointly market CSI and energy efficiency, as long as they create and adhere to a method for tracking and allocating marketing costs between the two programs.

5. SDG&E may charge SDREO for technical support on interconnection only to the extent PG&E and SCE charge for this support.

6. The CSI program administrators should each spend no more than $500,000 annually for interim marketing and outreach, until further order of this Commission or unless Energy Division approves an additional $100,000. This $500,000 annual limit is in addition to the cap of 5% of budgeted CSI funds for administrative expenses.

O R D E R

IT IS ORDERED that the California Solar Initiative interim marketing and outreach plan and process set forth in Appendix A is adopted.

This order is effective today.

Dated May 24, 2007, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH

JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX A

California Solar Initiative

Interim Marketing and Outreach Plans and Process

California Solar Initiative program administrators should adhere to the following process for review and approval of interim marketing and outreach plans:

1. Within 20 days of the effective date of this order, each program administrator shall send a letter to the Director of the Energy Division, with a copy to all parties on the service list of this rulemaking, containing their interim CSI marketing and outreach plans and a budget for interim marketing activities for the remainder of 2007.

2. Within 20 days of program administrators' interim marketing proposals, parties on the service list may send a letter to the Director of the Energy Division commenting on the proposed interim marketing plans. The CSI program administrators will have five days to respond. Following review of any comments by parties and after consultation with the assigned Commissioner, the Director of Energy Division will expeditiously notify each program administrator by letter whether its interim plans are approved, or modified.

3. The proposed interim plans should incorporate the following:

    a. A budget of no more than $500,000 annually for each program administrator.

    b. A description of planned interim marketing and outreach activities and types of materials.

    c. Plans for each program administrator to conduct at least one training session per month directed at solar installers. Invitations should be distributed to at least all those persons or organizations on the CSI, Self Generation Incentive Program (SGIP), and the California Energy Commission's

Emerging Renewables Program (ERP) databases, eligible installer lists, and the service list of this proceeding.

d. Plans for PG&E and SCE to distribute at least two bill inserts either in 2007 or no later than the end of the first quarter of 2008 to promote CSI. At least one of these bill inserts should target the residential and small commercial market. The proposed inserts should be submitted to the Energy Division for review and approval prior to release. SDREO should propose other independent mailings or target marketing activities in lieu of a bill insert.

e. Plans for program administrators to coordinate on one monthly electronic newsletter that they would issue jointly to update readers on new program tools and information, the current focus of CSI implementation discussions, and methods for the public to submit suggested solutions on implementation concerns. The newsletters must be sent to all applicants in the SGIP, CSI, and ERP databases, to lists of registered sellers and installers, posted to the GoSolarCalifornia and program administrators' websites, and sent to the service list of this proceeding. Energy Division staff may recommend particular topics to be addressed.

f. A method for tracking and allocating marketing costs between energy efficiency and CSI programs if CSI is jointly marketed with energy efficiency.

4. The interim plans may include, but are not limited to, plans to develop the following outreach materials, as long as program administrators stay within the $500,000 annual budget limit:

   a. Brochures

   b. Fact sheets

   c. Bill inserts or other direct mailings

d. A short video for the GoSolarCalifornia website (jointly funded by all program administrators) to walk interested applicants through the application process.

e. Web-based applicant training seminars.

5. Program administrators may request a 20% budget increase, or an additional $100,000, but must provide detailed justification to Energy Division why additional marketing expenses are required.

6. Following Energy Division approval of interim marketing and outreach plans, program administrators shall send final versions of basic marketing and collateral materials, in the form of program brochures, fact sheets, and general customer education kits to the Director of the Energy Division when ready for review. The materials should be patterned after materials on the "GoSolarCalifornia" website.[1] The materials must, whenever possible, reference the program administrator's role in the CSI program, energy efficiency audit requirements, and the GoSolarCalifornia website. Energy Division will review the proposed materials, in consultation with the assigned Commissioner, and expeditiously notify the program administrator whether the materials are approved or require modification.

7. The program administrators should submit semi-annual expense reports on all administrative activities to the Director of the Energy Division, with the first report due July 15, 2007, and further reports every six months thereafter. The reports should separately delineate interim marketing and outreach from other administrative expenses so Energy Division can track the various categories of administrative expenditures. Each program administrator may spend no more than 5% of its total CSI funds for administration, plus $500,000 for interim marketing and outreach, until further order of the Commission.

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[1] www.gosolarcalifornia.ca.gov

8. Each program administrator shall update its interim marketing and outreach plan by sending a follow-up letter to the Director of the Energy Division six months after the date of its initial letter, and every six months thereafter, until a final marketing and outreach plan is adopted in this proceeding.

(END OF APPENDIX A)